



**CITY OF SUNNYVALE  
REPORT  
Planning Commission**

**July 10, 2006**

**SUBJECT:**           **2006-0467:** Application located at **1386 Lewiston Drive** (near Cascade Dr.) in an R-1 (Low Density Residential) Zoning District.

Motion                   Variance from Sunnyvale Municipal Code section 19.48.020 for a new fence greater than three feet in the corner and driveway vision triangles.

**REPORT IN BRIEF**

**Existing Site Conditions**           Single-family home

**Surrounding Land Uses**

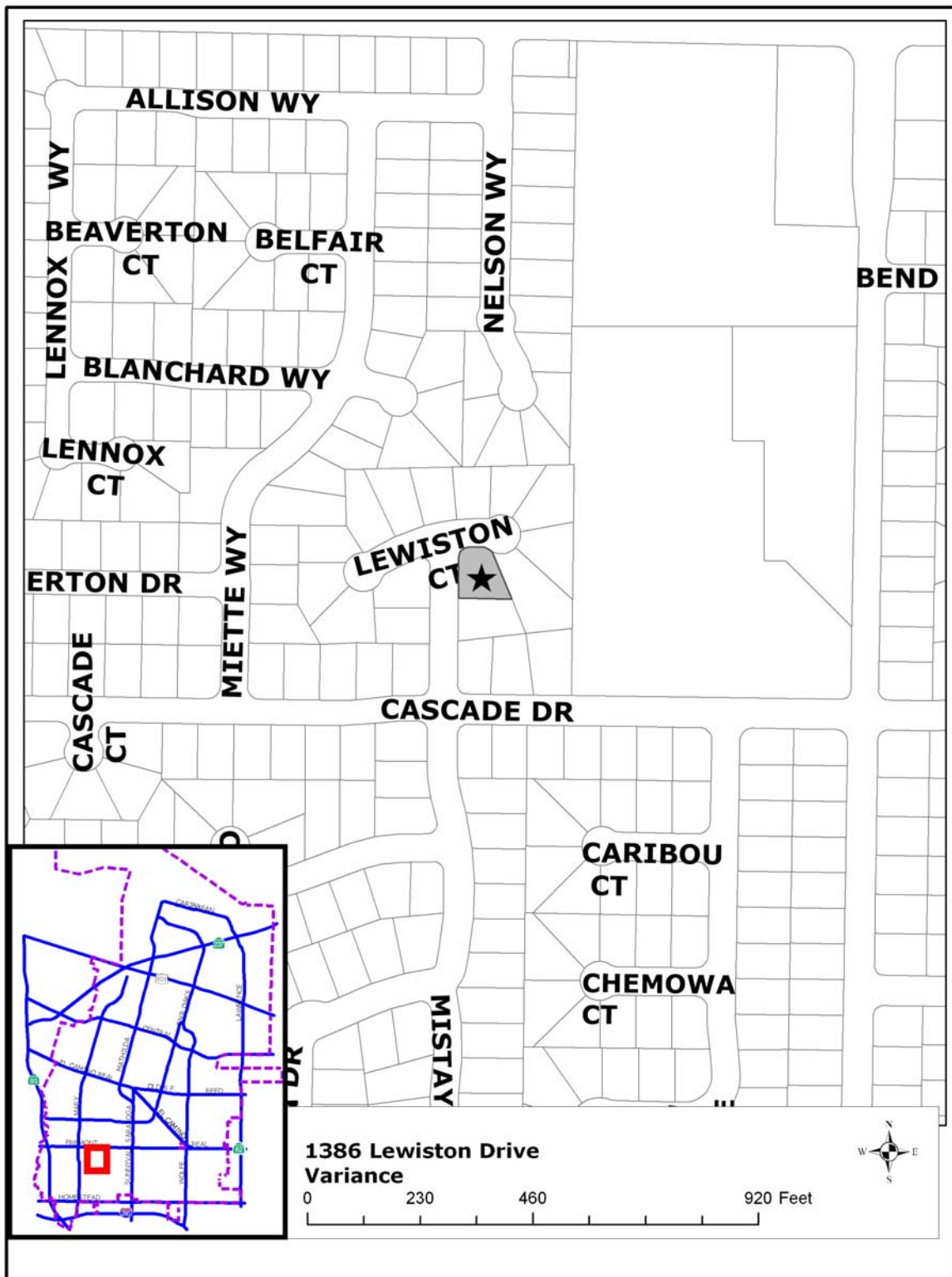
North	Single-family residential
South	Single-family residential
East	Single-family residential
West	Single-family residential

**Issues**                   Encroachment into the corner and driveway vision triangles

**Environmental Status**           A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Administrative Hearing Officer's Action**           Denied Variance Application

**Staff Recommendation**           Denial



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Low Density Residential	Same	Low Density Residential
<b>Zoning District</b>	R-1	Same	R-1
<b>Lot Size (s.f.)</b>	8,668	Same	8000 min.
<b>No. of Units</b>	1	Same	1 max.
<b>Fence Height in the 40' Corner Vision Triangle</b>			
★ • Fence	N/A	5' 6"	3'
<b>Fence Height in the 10' Driveway Vision Triangle</b>			
★ • Fence	N/A	5' 6"	3'

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

The applicant is proposing a 5' 6" high wrought iron and masonry fence into the corner and driveway vision triangles of his property. The fence is on the property line along Lewiston Drive and Courts, immediately adjacent to the back of the sidewalk. This fence will enclose the front yard area and connect to an existing 7' high wood fence. This 7' high wood fence encloses the reducible front yard area. Within the proposed iron and masonry fence, there is a double gate proposed near the street corner, intended to allow access to the reducible front and rear yards.

As part of this application, the applicant is proposing to remove the 6' high wood fence that currently is built between the house and the 7' high front yard fence.

**Background**

**Previous Actions on the Site:** This application was reviewed at the June 14, 2006 Administrative Hearing and was denied. The applicant has appealed the decision to the Planning Commission. The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2002-0285	556 sf addition for new attached boat garage	Design Review/ Approved	4/16/2002

File Number	Brief Description	Hearing/Decision	Date
1998-0197	7' high fence in the reducible front yard	MPP/ Approved	8/14/1997

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes minor alterations to existing facilities.

**Use:** The fence is intended to provide privacy and security for the applicant as well as enhance the visual appearance of the front yard.

**Design of the Fence:** The fence height consists of approximately:

- 2' of brick/block masonry on the ground;
- 3' 6" iron railings mounted/between the masonry features;
- 5' 6" high masonry columns spaced every 7' 6".

The fence will be iron railings only within the corner vision triangle areas. The height will be comparable in height to the mixed material portion of the fence. Attachment D shows a photo simulation of the fence and gate.

The following Guidelines were considered in analysis of the project site design:

Design Policy or Guideline (Site Layout)	Comments
3.11 (G) Landscaping <i>Fencing along the front property lines and along side property lines within front yard setback areas should not exceed three feet in height.</i>	The applicant is proposing a fence of 5'6" in the front yard area.

**Vision Triangle:** Sunnyvale Municipal Code Section 19.34.060 requires that 40' vision triangles be maintained at all intersections and 10' driveway triangles be maintained clear of obstruction over 3' high. This is to promote safety and reduce the potential for accidents and injury by providing drivers a better view of pedestrian, bicycle, and vehicular traffic while approaching a corner.

The code requirement is rooted in general traffic engineering practice. The intent is to require that all intersections have an unobstructed sight distance in all directions. The sight triangles must be free of obstructions which might interfere with the driver's ability to see other vehicles, pedestrians or bicyclists approaching on the cross street and to ensure that vehicles have sufficient

sight distance to make appropriate decisions on whether to slow, stop, or proceed through the intersection area.

Sunnyvale does not have a policy that would allow for a sliding scale or reduction in the required vision triangles. Some cities allow sight triangle encroachments based on maximum speed limits, number of affected housing units, fence design, etc. This type of flexibility is not available for City staff to utilize in the Sunnyvale Municipal Code.

**Compliance with Development Standards/Guidelines:** The proposed fence meets all the development standards except for the height requirement in the vision triangles.

**Expected Impact on the Surroundings:** Staff finds that the fence would not have a negative aesthetic impact on the neighborhood, due to its quality and design. Staff does not believe an open wrought iron fence will create a fortress effect or overly enclose the front yard from a streetscape perspective. Wrought iron fences generally produce an open visual appearance into the front yard area but they may not provide full visibility when viewed from certain angles.

**Applicant's Justification:** The applicant submitted a letter of justification with the following reasons for the project:

1. *Our home is located on the right side in a quiet cul-de-sac*
2. *The cars that are traveling in our street are not allowed to go fast as per the cul-de-sac speed limit*
3. *There are only 4 houses in the cul-de-sac of which all of them reviewed the plans and approved our proposed fence*
4. *The distance between the proposed fence to the street is 12 feet; therefore, there is sufficient line of sight for traffic as the cars can not make the right turn before physically passing the proposed fence.*
5. *When looking at the Photoshop illustration (included with the Variance application), one can clearly see that there is complete visibility of the other side of the street.*
6. *The proposed fence is going to be a see-through decorative metal (see attached plans)*
7. *There will be no supporting cement posts in the curvature area to further assure line of sight*
8. *The reason for the height of the fence is security & safety! We have a spa in our back yard and we do not want kids to be able to easily jump the fence when we are away and use our spa; we are mainly concerned about accidents and are trying to think ahead and prevent any possibility of such unfortunate event!!!*
9. *The proposed fence will enable us to demolish the existing wooden fence that is facing the front of Lewiston Dr. (from the house to the street); this*

*will enhance & beautify the looks of the neighborhood and therefore raise everyone's property value*

**Administrative Hearing:** On June 12, 2006, the Administrative Hearing Officer considered the Variance application and denied the request. After presentations by staff and the applicant, the Hearing Officer stated that the required findings could not be made and that granting the Variance would constitute a special privilege not enjoyed by similar property owners. (See Attachment H for Administrative Hearing Minutes). The applicant appealed this decision on June 12, 2006.

## **Conclusion**

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**Discussion:** Staff acknowledges there are some circumstances at the subject property that would minimize some of the potential negative impacts the fence might have to safety in the area. These are as follows:

- Street intersection is a "T", rather than a continuing street;
- The speed limit is the minimum in the City at 25mph;
- The average speed in the area is much less than the minimum, estimated at about 15mph;
- Lewiston Drive and Court are very wide streets;
- There only five homes fronting on the affected corner, so there are very low traffic volumes;
- The proposed fence is an open design, allowing visibility through the fence.

The difficulty in recommending approving the Variance request lies in two facts. The first: while the particulars of the property minimize potential safely impacts, they are not totally eliminated. Therefore, a safety impact, although minor, will be created. The second fact is this property is not a unique or extraordinary circumstance in Sunnyvale. There are many similar corner lot configurations in the City with a similar set of circumstances. Therefore, granting this Variance would require granting similar requests throughout the City.

**Findings and General Plan Goals:** In order to grant the Variance, three findings must be made (See Attachment A, Recommended Findings).

Staff cannot make all of the required Findings based on the justifications for the Variance. If the Hearing Officer can make the required findings, staff recommends the incorporation of the Conditions of Approval in Attachment B.

**Conditions of Approval:** If the Commission grants the appeal and approves the Variance, the Conditions of Approval located in Attachment B are recommended.

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**Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

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**Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 21 notices mailed to adjacent property owners and residents of the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li></ul>

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**Alternatives**

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1. Deny the Variance.
2. Approve the Variance with recommended Condition of Approval in Attachment B.
3. Approve Variance with modified Conditions.

**Recommendation**

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Alternative 1.

Prepared by:

Steve Lynch  
Project Planner

Reviewed by:

Gerri Caruso  
Principal Planner

Approved by:

Trudi Ryan  
Planning Manager

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Applicant's Justifications
- D. Petition Letter from Applicant
- E. Letter from neighbor
- F. Site and Architectural Plans
- G. Letter from neighbor
- H. Administrative Hearing meeting minutes from June 12, 2006

**Recommended Findings - Variance**

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1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner or privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff cannot find that this property/use has exceptional or extraordinary circumstances. There are many similar corner lot configuration in the City with a similar set of circumstances.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

Staff finds that the fence would not have a negative aesthetic impact on the neighborhood, due to its quality and design. Staff does not believe an open rod iron fence will create a fortress effect or overly enclosed front yard from a streetscape perspective. The Traffic and Planning Divisions have reviewed the application and found that the particulars to the property do minimize potential safety impacts, but the impacts are not totally eliminated. Therefore, a safety impact, although minor, will be created.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff finds that the granting of a Variance would constitute a special privilege since other similar property owners have been denied similar requests.

**Recommended Conditions of Approval - Variance**

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In addition to complying with all applicable City, County, State, and Federal Statutes, Codes, Ordinances and Resolutions, the Permittee expressly accepts and agrees to comply with the following Variance Modifications.

1. Obtain a Building Permit for the fence in this permit.
2. The Variance Permit for the use shall expire if the use is discontinued for a period of one year or more.
3. The Variance shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
4. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
5. A Stop sign must be installed at the expense of the applicant at the south east corner of the intersection of Lewiston Drive and Court.
6. The 6' wood fence between the front and rear yard shall be removed (not the 7' fence adjacent to Lewiston Court).
7. The fence design shall be open wrought iron only; no masonry columns are permitted. A masonry base of 2' or less is permitted.
8. After installation, all landscaping shall thereafter be maintained in a neat, clean, and healthful condition.